

U.S. Application Serial No. 10/501,253
Atty. Docket No. 10191/3759
Reply to Office Action of September 20, 2007

Amendments to the DRAWINGS:

The drawings were objected to under 37 C.F.R. § 1.84(q) as to lead lines, under 37 C.F.R. § 1.84(p)(3) as to underlining, and under 37 C.F.R. § 1.84(u)(1) as to capitalizing the partial view numbers.

Accordingly, accompanying this Amendment are Replacement Sheets for the drawings, which now include lead lines for features 1, 2, and 3; underlining of reference numerals 4, 5, and 6; and completely capitalized Figure reference numerals, as suggested by the Office Action. No new matter has been added, and the drawings are supported by the present application. Approval and entry are respectfully requested.

Attachment: Two (2) Replacement Sheets.

REMARKS

Claim 18 is canceled without prejudice, and therefore claims 11 to 17, 19, and 20 are now pending in the present application.

In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph two (2) of the Office Action, Applicant notes with appreciation the acknowledgment of the claim for foreign priority and the acknowledgment that all certified copies of the priority documents have been received.

With respect to paragraph four (4) of the Office Action, the Substitute Specification now includes a reference to the priority application as suggested.

With respect to paragraph five (5) of the Office Action, the drawings were objected to under 37 C.F.R. § 1.84(q) as to lead lines, under 37 C.F.R. § 1.84(p)(3) as to underlining, and under 37 C.F.R. § 1.84(u)(1) as to capitalizing the partial view numbers.

While the objections may not be agreed with, to facilitate matters, the drawings now include lead lines for features 1, 2, and 3; underlining of reference numerals 4, 5, and 6; and completely capitalized Figure reference numerals, as suggested. No new matter has been added, and the drawings are supported by the present application. Approval and entry are respectfully requested, as is withdrawal of the objections.

With respect to paragraph eleven (11) of the Office Action, claims 11 to 20 were rejected under 35 U.S.C. § 102(b) as anticipated by Stam et al., U.S. Patent No. 5,923,027. Claim 18 has been canceled herein without prejudice, rendering moot the rejection of claim 18.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(a), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person

having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claims 11 and 19 have been rewritten to provide that the image sensor is focused on a region external to the vehicle.

Claim 11, as presented, relates to a method for recognizing a visual obstruction using an image sensor associated with a vehicle, including analyzing an image recorded by an image sensor, *in which the image sensor is focused on a region external to the vehicle*. Claim 19, as presented, relates to a device for identifying a visual obstruction, including an image sensor for recording an image, *in which the image sensor is focused on a region external to the vehicle*.

The Stam reference does not identically disclose (or even suggest) feature in which the image sensor is focused on a region external to the vehicle, as provided for in the context of claims 11 and 19, as presented. Instead, the Stam reference indicates that its image sensor is focused on the windshield of a vehicle. Specifically, the Stam reference states that the “automatic moisture detecting system includes an optical system for imaging a portion of the windshield onto an image array sensor.” (Stam, col. 2, lines 63 to 65). Further, the Stam reference states that the optical system “causes raindrops and other sources of moisture on the windshield to be sharply focused while distant objects beyond the windshield are severely blurred in the image.” (Stam, col. 3, lines 62 to 64). (*See also* Stam, col. 4, lines 62 to 66 (stating that the optical system images “a predetermined portion of the windshield onto an image sensor such that objects at the approximate distance of the windshield are sharply in focus at the image plane while objects at a longer distance are out of focus and blurred”); and col. 8, lines 27 to 29 (stating that the optical system “images the scene in such a way that

distant objects are out of focus and objects at the windshield distance are in focus”)). Thus, it is plainly apparent that the Stam reference merely refers to focusing the image sensor on the windshield of a vehicle. Therefore, the Stam reference does not identically disclose (or even suggest) the feature in which the image sensor is focused on a region external to the vehicle, as provided for in the context of claims 11 and 19, as presented.

Accordingly, it is respectfully submitted that claims 11 and 19 are allowable for at least the reasons explained above. Claims 12 to 17 depend from claim 11 and are therefore allowable for at least the same reason as claim 11, as presented.

Withdrawal of the rejection of these claims is therefore respectfully requested.

In sum, it is respectfully submitted that claims 11 to 17, 19, and 20 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejection and objection be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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